

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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| OHIO COAL ASSOCIATION, et al., | : | Case No.: 2:15-cv-448 |
| | : | |
| and | : | Related Case No.: 2:14-cv-2646 |
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| MURRAY ENERGY CORPORATION, et al., | : | JUDGE JAMES L. GRAHAM |
| | : | |
| | : | MAGISTRATE JUDGE ELIZABETH P. DEAVERS |
| Plaintiffs, | : | |
| v. | : | |
| | : | JOINT STATUS REPORT OF THE PARTIES |
| R. ALEXANDER ACOSTA,¹ SECRETARY OF LABOR, and THE MINE SAFETY AND HEALTH ADMINISTRATION, | : | |
| | : | |
| Defendants. | : | |

By order of the Court, the parties hereby present their joint status report.

1. Under a September 13, 2018 Order (ECF No. 64 in 15-cv-448 and ECF No. 89 in 14-cv-2646), the Court extended a stay of these proceedings, granting the parties additional time to pursue settlement discussions and requiring them to file a joint report by December 12, 2018.

2. Since the stay first began, the parties have convened numerous settlement conferences via telephone, attended by counsel for all parties and, in most instances, representatives of the parties in both of the related cases. Counsel for the parties have also communicated via e-mail and telephone throughout the pendency of the stay to exchange information and discuss the parties' respective positions.

¹ Pursuant to Federal Rule of Civil Procedure 25(d), R. Alexander Acosta, in his official capacity as Secretary of Labor, has been substituted for Thomas E. Perez.

3. On October 19, 2017 the parties conducted an in-person conference between counsel and party representatives at MSHA headquarters in Arlington, Virginia for the purpose of exploring potential settlement terms.

4. In December of 2017, Plaintiffs made a detailed proposal to MSHA. In April 2018, MSHA responded to the Plaintiffs with its own detailed proposal. While the parties' respective proposals shared common elements, there remained terms that have not fully been agreed upon.

5. Following the exchange of proposals, the parties have continued to communicate about the outstanding issues. In late June 2018, counsel for the parties participated in a conference call in which they discussed in depth the differences between the proposals exchanged by Plaintiffs and MSHA.

6. Following the June 2018 telephone conference, MSHA requested that Plaintiffs provide a further written proposal. Plaintiffs agreed to do so and submitted that proposal to MSHA on September 10, 2018.

7. On December 10, 2018, MSHA informed Plaintiffs that it would not accept their September 10, 2018 proposal.

8. At this time, MSHA is evaluating whether it is worthwhile to continue settlement discussions, and it anticipates needing another week to make this determination.

9. Accordingly, the parties respectfully request that the Court extend the stay for seven (7) days and require the parties to file an additional joint status report by December 19, 2018. In that report, the parties will explain whether they wish to continue settlement discussions or, alternatively, proceed to briefing the merits in this case. To ensure that the planned status conference occurs with the benefit of MSHA's position on settlement, the parties also respectfully request that the Court move the status conference, currently scheduled for December 12, 2018 at

10:00 a.m., to December 20, 2018 at 10:00 a.m., at which time all parties are available to present their December 19, 2018 status report to the Court, or to another date agreeable to the Court.

Dated: December 10, 2018

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was electronically filed on December 10, 2018 via the Court's ECF filing system, which automatically serves notice on all counsel of record in this action.

s/ Kari E. D'Ottavio
Kari E. D'Ottavio